



**MCI Telecommunications
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May 12, 1997

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

**Re: In the Matter of Bell Atlantic Telephone Companies' New Expanded
Interconnection Tariff, CC Docket No. 96-165**

Dear Mr. Caton:

Enclosed herewith for filing are the original and six (6) copies of MCI Telecommunications Corporation's Opposition to Direct Case regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Opposition to Direct Case furnished for such purpose and remit same to the bearer.

Sincerely yours,

Don Sussman
Regulatory Analyst

Enclosure
DHS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of:

Bell Atlantic Telephone Companies'
New Expanded Interconnection Tariff

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CC Docket No. 96-165

MCI OPPOSITION TO DIRECT CASE

I. Introduction

MCI Telecommunications Corporation ("MCI") respectfully submits its Opposition to the Direct Case filed by Bell Atlantic on April 25, 1997. Bell Atlantic has failed to justify the excessive rates and unreasonable terms and conditions that it proposes for expanded interconnection services. MCI recommends that the Common Carrier Bureau ("Bureau") require Bell Atlantic to base its expanded interconnection tariffs on the methodology proposed herein. The methodologies proposed by MCI are fully consistent with the Commission's Virtual Collocation Order.¹

II. Background

In August 1996, the Bureau released three orders initiating investigation into the new expanded interconnection tariffs filed by Ameritech, Puerto Rico Telephone Company ("PRTC"), and Bell Atlantic. The filings of Ameritech and Bell Atlantic reinstated physical

¹ Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Memorandum and Opinion and Order, 9 FCC Rcd 5154 (1994) ("Virtual Collocation Order").

collocation service; PRTC introduced expanded interconnection through virtual collocation for the first time.² Bell Atlantic also modified its virtual collocation tariff. On March 11, 1997, the Bureau issued an order designating issues for investigation, requesting additional information to support proposed rates and terms and conditions.³ On April 10, 1997, Ameritech and PRTC filed their Direct Cases, to which MCI responded on April 25, 1997. On April 10, 1997, the Bureau granted Bell Atlantic's Motion for Extension, requiring Bell Atlantic to file its Direct Case by April 24.⁴ On April 25, Bell Atlantic filed its Direct Case, with a Motion to Accept Direct Case One Day Late. In the instant petition, MCI responds to Bell Atlantic's Direct Case.

III. Bell Atlantic's Cost of Capital Is Unlawful

In the Tariff Review Plan Order, the Bureau clearly stated that 11.25 percent is the discount rate that the local exchange carriers ("LECs") should use in order to calculate their

² Investigation of Bell Atlantic's New Expanded Interconnection Offerings, CC Docket No. 96-165, Order, DA 96-1232 (Com. Car. Bur. August 2, 1996); Investigation of Puerto Rico Telephone Company's New Expanded Interconnection Offerings, CC Docket No. 96-160, Order, 11 FCC Rcd 9407 (Com. Car. Bur. August 14, 1996); Investigation of Ameritech's New Expanded Interconnection Offerings, CC Docket No. 96-185, Order, 11 FCC Rcd 10177 (Com. Car. Bur. August 29, 1996).

³ In the Matter of the New Expanded Interconnection Tariffs of Ameritech Operating Companies' and Puerto Rico Telephone Company, CC Docket Nos. 96-185 and 96-160, Order Designating Issues for Investigation, DA 97-523 (released March 11, 1997) ("Designation Order").

⁴ In The Matter of Bell Atlantic telephone Companies' New Expanded Interconnection Tariff, CC Docket No. 96-165, Order, DA 97-728 (Com. Car. Bur. April 10, 1997).

price outs.⁵ In the Designation Order, the Bureau directed Bell Atlantic to justify its cost of capital to the extent that it exceeds 11.25 percent.⁶ In its Direct Case, Bell Atlantic asserts that it is using 11.90 percent cost of capital because that is its forward-looking cost of money. Bell Atlantic claims that this rate is based on its cost of long-term debt and equity, which respectively are set at 8.3 percent and 14.3 percent rate.

First, as MCI has pointed out before, there is no reason to believe that any LEC would need to borrow money as a result of expanded interconnection services. Interconnectors are required to pay for any costs that result from the offering of these services.

Second, even if LECs were required to borrow money to provide expanded interconnection services, the added cost of providing these services is minimal, relative to daily operating expenses of the LECs. LECs would also, in any case, be able to borrow from the financial markets, if necessary, at a rate considerably lower than market rate given the monopoly control that they continue to maintain over the central office facilities.

Finally, it is irrelevant what cost of money Bell Atlantic purportedly used in its TSLRIC cost studies. The Bureau directed the LECs to calculate rates for expanded interconnection services base on 11.25 percent cost of capital. Thus, unless a LEC is granted a waiver of the rule, the LECs must use 11.25 percent as its cost of capital.

The artificially inflated cost of money that Bell Atlantic uses to determine its price

⁵ Commission Requirements for Cost Support Material To Be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport, Tariff Review Plan Order, 9 FCC Rcd 5683 ("Tariff Review Plan Order").

⁶ Designation Order at ¶39.

outs unnecessarily raises new entrants cost of doing business. Bell Atlantic's purported cost of money is unreasonably high, and should not be permitted by the Bureau.

IV. Bell Atlantic Has Failed to Demonstrate That Interconnectors Should Be Required to Indemnify Bell Atlantic for Its Own Acts or Omissions

In the Designation Order, the Bureau directed Bell Atlantic to explain the reasonableness of the tariff provisions requiring interconnectors to indemnify Bell Atlantic for any of these LECs' "own acts or omissions" in connection with the installation, maintenance and repair of the collocators' equipment. In its Direct Case, Bell Atlantic argued that this tariff provision is reasonable because Bell Atlantic believes that its employees, which must be used by interconnectors to provision a collocation site, should not be held responsible for their actions. Bell Atlantic argues that "when working on the collocator's equipment, Bell Atlantic's employee is basically working for the collocator, not Bell Atlantic."⁷

Bell Atlantic's argument is ridiculous. Under Section 19.3.5 E of Bell Atlantic's interstate tariff (Bell Atlantic FCC #1, Installation, Engineering and Maintenance), Bell requires collocators to use either Bell Atlantic employees (at rates specified in Section 19.7(C) and/or 19.7(D) of its tariff), or to contract directly with a Bell Atlantic-approved installation vendor. The purpose of such a requirement, supposedly, is to ensure that the provisioning, maintenance and repair of such facilities is accomplished in a manner that will not harm Bell Atlantic's network. Since collocators are required to use Bell Atlantic "approved" or "trained" personnel, collocators should expect these designated personnel

⁷ Bell Atlantic Direct Case at 23.

to inform a collocator if an action would cause harm to the network prior to its installation or repair. If a Bell Atlantic employee is permitted not to fully utilize its training simply because it is working on a collocator's equipment, then no reason exists why a collocator should be required to use Bell Atlantic "trained" or "approved" personnel. However, if Bell Atlantic "trained" or "approved" personnel must be utilized by the collocator, as is the case, then the collocator should expect professional, responsible service from that employee.

Ostensibly, Bell Atlantic requires collocators to utilize Bell Atlantic "approved" or "trained" personnel for a legitimate reason, and not merely as a way to inflate collocators' cost of business. Bell Atlantic's "approved" or "trained" personnel should be held accountable for their actions. That is why they are being paid; that is why they are required by Bell Atlantic. It is unreasonable for interconnectors to indemnify Bell Atlantic for actions performed by personnel that Bell Atlantic has either approved or trained.

V. Bell Atlantic's Explanation of Overhead Differences Between DS1/DS3 Access Services and Expanded Interconnection Services Is Deficient

In the Designation Order, the Bureau ordered Bell Atlantic to explain differences between DS1/DS3 access services and expanded interconnection services that would justify different overhead.⁸ Bell Atlantic contends that the overhead loadings for DS1/DS3 access services are applied differently than overhead loadings applied to expanded interconnection services because collocation equipment is dedicated to the use of the interconnector, while access services may be shared by many customers.⁹

⁸ Designation Order at ¶72.

⁹ Bell Atlantic at 20.

MCI, on a national basis, is the second largest access customer. Based on MCI's experience, Bell Atlantic's statement is misleading. In the majority of cases, interstate special access facilities are dedicated to the use of a specific access customer. Thus, Bell Atlantic's explanation is inaccurate, and thus deficient.

VI. Bell Atlantic Has Not Justified Its Requirement That Collocators Must Use Repeaters

In its Direct Case, Bell Atlantic contends that it requires the use of repeaters in approximately 15 percent of its physical collocation sites.¹⁰ Interconnectors typically collocate within a few feet from the LEC's equipment. Based on MCI's experience, repeaters are only required for transmission of over 1,500 feet. Bell Atlantic should be required to demonstrate that, in each of these locations, the distance for transmission is greater than this distance, and thus requires repeaters. It should also be required to demonstrate that no closer alternative location is practical. Absent such a showing, no LEC should be permitted to require interconnectors to utilize repeaters.

¹⁰

Bell Atlantic Direct Case at 15.

VII. Conclusion

For the above-mentioned reasons, MCI requests (1) that the Commission uphold its requirement that LECs adjust their overhead loadings to reflect the lowest overhead loadings assigned to the LECs' comparable DS1 and DS3 services; and (2) require Bell Atlantic to modify its proposed expanded interconnection tariffs as discussed in this petition.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION

A handwritten signature in black ink, appearing to read 'Don Sussman', followed by a long horizontal flourish.

Don Sussman
Regulatory Analyst
1801 Pennsylvania Ave., NW
Washington, D.C. 20006
(202) 887-2779

May 12, 1997

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on May 12, 1997.

A handwritten signature in black ink, appearing to read 'Don Sussman', is written over a horizontal line.

Don Sussman
1801 Pennsylvania Avenue, NW
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CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing Opposition to Direct Case were sent via first class mail, postage paid, to the following on this 12th day of May, 1997.

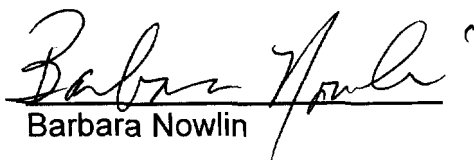
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